

[REDACTED]

ALBORG, VEILUVA & EPSTEIN LLP
ATTORNEYS AT LAW

Mark D. Epstein
mepstein@avelaw.com

File No. 900725

June 19, 2008

The Honorable Louisa Porter
United States District Court
Southern District of California
880 Front Street
San Diego, CA 92101-8900

Re: Shalaby v. Newell Rubbermaid, Inc. et al.
USDC, Northern District of California Case No. C 06-07026 MJJ

Dear Judge Porter:

We write in response to Mr. Carruth's letter to Your Honor dated June 9, 2008.

Mr. Carruth asks for Your Honor's permission to allow an insurance company representative to attend the mandatory settlement conference scheduled for July 21, 2008 in the above-referenced action, in lieu of an actual representative (principal or employee) of his client, Western Industries. We respectfully request that the Court decline Western Industries' request for a number of reasons, including (1) the possibility that Western and the other defendants and third-party defendants face potential exposure in excess of their insurance policy limits; (2) the possibility that Western Industries may have the right and/or obligation to independently approve any settlement terms, even if a potential settlement is within the company's policy limits; and (3) the probability that the success of the settlement conference will largely depend on the attendees having familiarity with the product at issue in this case (a MAPP gas cylinder and torch), and the respective defendants' and third party defendants' business practices.

Thank you for your consideration.

Respectfully submitted,

ALBORG, VEILUVA & EPSTEIN LLP

MARK D. EPSTEIN

MDE/jb

cc: Lowell T. Carruth, Esq.
Shelley Hurwitz, Esq.
Beth Schneider Naylor, Esq.
Richard Ergo, Esq.

900725.ltr.Porter.061908.mde.doc



M C C O R M I C K
B A R S T O W L L P
A T T O R N E Y S A T L A W

Lowell T Carruth
Partner

FRESNO, CA OFFICE
5 River Park Place East
Fresno, CA 93720-1501
P.O. Box 28912
Fresno, CA 93729-8912
Telephone (559) 433-1300
Fax (559) 433-2300

June 9, 2008

The Honorable Louisa Porter
United State District Court
Southern District of California
880 Front St.
San Diego, CA 92101-8900

Re: Shalaby v. Irwin Industrial Tool Co., et al.
U.S.D.C. Case No. 03:07-CV-02107 W (POR)

Dear Judge Porter:

Our office represents Third-Party Defendant and Cross-claimant Western Industries, Inc. in the above-referenced matter. A mandatory settlement conference has been scheduled in this case for July 21, 2008 at 10:00 a.m. in your chambers.

This letter will serve as our request to have an insurance representative present at the mandatory settlement conference and **not** a representative of our client. The reason for this is that the insurance representative will have full authority to settle the case, however, a representative from Western Industries, Inc. will not have authority to settle the case. This **request** is made in the interests of judicial economy. Please advise if this is acceptable. Thank you for your assistance in this matter.

Respectfully submitted,

Lowell T. Carruth

:mgr

c: J. Phillip Moorhead, Esq.
Mark D. Epstein, Esq.
Richard Ergo, Esq.
Beth Schneider Naylor

03664/00161-1235335 v1

Other offices of
McCORMICK, BARSTOW, SHEPPARD
WAYTE AND CARRUTH, LLP

www.mccormickbarstow.com

MODESTO, CA OFFICE
Centre Plaza Office Tower
1150 Ninth Street, Suite 1200
Modesto, CA 95354
Telephone (209) 524-1100
Fax (209) 524-1188

LAS VEGAS, NV OFFICE
8337 West Sunset Road, Suite 350
Las Vegas, NV 89113
Telephone (702) 949-1100
Fax (702) 949-1101

CINCINNATI, OH OFFICE
1600 Scripps Center
312 Walnut Street
Cincinnati, OH 45202
Telephone (513) 762-7520
Fax (513) 762-7521

SANTA BARBARA, CA OFFICE
27 W Anapamu St. #371
Santa Barbara, CA 93101
Telephone (805) 965-5566
Fax (805) 965-5533